

DUNCAN MILLER

IBLA 76-102

Decided September 17, 1975

Appeal from determination of the New Mexico State Office, Bureau of Land Management, denying approval of a partial assignment of oil and gas lease BLM-A-034853.

Appeal dismissed.

1. Rules of Practice: Appeals: Generally

When the issues presented on appeal are moot the appeal will be dismissed.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Appellant, holder of oil and gas lease BLM-A-034853 purported to make a partial assignment thereof to "Duncan Miller, as Trustee for Proposed Working Interest Unit, South Lakewood area." The New Mexico State Office, Bureau of Land Management (BLM), denied approval because "there is no authority whereby a lessee can assign a portion of a lease to himself for the purpose of segregating a lease" and for the further reason that 43 CFR 3107.6-2 restricts a 2-year extension by reason of a partial assignment of undeveloped lands out of a lease to those situations where the parent lease was issued prior to September 2, 1960.

Miller's appeal appears to be under the illusion that BLM "disregards the whole matter of the 'trust relationship'" and that 43 CFR 3107.6-2 is not applicable to acquired lands. His statement of reasons contained such bewildering remarks as the lease which he held for 10 years "was never a viable lease" and that he has "for years been complaining of swindlers in connection with oil and gas leases in the New Mexico Land Office." Even though the record is devoid of evidence showing he undertook to develop the lease or has ever expended any money in that direction he complains of the "stringent and environmental requirements" which he indicates as a "contractual violation" for which he "believes the lease should be equitably extended -- or, a new lease be issued for the same land."

The subject lease was issued effective August 1, 1965, for a period of 10 years, and so long thereafter as oil or gas is produced in paying quantities. Absent an extension authorized by law, it was due to expire July 31, 1975. Unless otherwise provided by law, duly promulgated regulations of the Secretary of the Interior pertaining to oil and gas leasing pursuant to the Mineral Leasing Act of 1920, as amended, 30 U.S.C. §§ 181 et seq. (1970), govern oil and gas leasing on lands subject to the Acquired Lands Mineral Leasing Act of 1947, as amended, 30 U.S.C. §§ 189, 359 (1970). 43 CFR 3100.0-3(a)(b). Thus, although 43 CFR 3107.6-2 was adopted to implement the Mineral Leasing Act Revision of 1960, 74 Stat. 790, now codified in 30 U.S.C. § 187a (1970), the regulation is equally applicable to acquired lands.

The subject lease was issued in 1965, and therefore is subject to limitations of the Act of September 2, 1960, supra. It may not be extended beyond its primary term by reason of a partial assignment. BLM properly advised appellant in the premises. It follows, that approval of a partial assignment at this late date, the lease having expired on July 31, 1975, can serve no purpose and the appeal, being moot, must be dismissed.

Therefore, pursuant to the authority delegated by the Secretary of the Interior to the Board of Land Appeals, 43 CFR 4.1, the appeal is dismissed.

Douglas E. Henriques
Administrative Judge

We concur:

Frederick Fishman
Administrative Judge

Edward W. Stuebing
Administrative Judge

